

TOWN OF TIVERTON, RHODE ISLAND

NOTICE OF PUBLIC HEARING AMENDMENTS TO THE CODE OF ORDINANCES

Notice is hereby given that the Tiverton Town Council will hold a PUBLIC HEARING at Town Hall, 343 Highland Road, Tiverton, RI, on September 26, 2016, at 7:00 p.m. on a proposed amendment to the Town Code of Ordinances to add CHAPTER 79, STONE WALL PROTECTION AND PRESERVATION, which would require property owners to apply to the Building Official prior to removing, altering, or replacing a stone wall on his or her property. The ordinance would also limit the removal, alteration, or replacement of historic stone walls over 100 years of age and stone walls abutting a State or Town road to instances where there are no reasonable, not unduly burdensome, alternatives to removal, replacement or alteration of the stone wall, and in such instances removal, alteration, or replacement will be allowed to the least extent necessary. The ordinance will designate the Historical Preservation Advisory Board as advisory to the Building Official and would provide of minimum penalty of \$100 and a maximum penalty of \$500 for those who violate the ordinance. A full copy of the ordinance is available for review at the Clerk's office in Town Hall.

HISTORIC STONE WALL PROTECTION ORDINANCE

The Town of Tiverton hereby ordains that the Town Code of Ordinances is amended to add Chapter 79, to read as follows:

CHAPTER 79 – STONE WALL PROTECTION AND PRESERVATION

Section 79-1. Purpose.

The intent of this Chapter is to protect certain stone walls and historic stone walls in the Town of Tiverton, since they are a cultural resource and help preserve the rural character of the Town. The protection and preservation of stone walls and historic stone walls is in furtherance of the public health, safety, and welfare, and this Chapter should be liberally construed to achieve that purpose.

Section 79-2. Definitions.

- a) For the purposes of this Chapter, a “stone wall” is defined as a vertical structure of aligned natural stone normally constructed to designate a property boundary or to separate agricultural activities within a farmstead, which must also be 50 feet in length or longer, two feet high or higher.
- b) For the purposes of this Chapter, an “historic stone wall” is defined as a stone wall that is one hundred (100) years old or older. One or more of the following items may be used to provide *prima facie* evidence of the age of a stone wall for the purposes of determining whether or not a stone wall is historic:
 - (1) Recorded deeds that contain a reference to the stone wall that indicate when the wall was built.
 - (2) Chain of title search which identifies the original owner/builder and the decade in which the stone wall was built.
 - (3) Construction dates inscribed in the stones.
 - (4) Diaries, invoices and personal testimony.
 - (5) The stone wall is associated with an historic structure.
 - (6) Contiguity with an historic cemetery, with dates on the burial markers.
 - (7) Construction materials that are part of the wall that indicate the age of the stone wall and period of construction.
 - (8) Coverage of a continuous coat of dry lichen over a major portion of the stone wall.

Section 79-3. General Provisions.

- a) Whenever any person wishes to remove, replace, or alter a stone wall, as defined in this Chapter, he or she shall first submit to the Building Official a site plan depicting the location of the stone wall, as well as any available evidence listed in section 79-2(b)(1)-(8) above. If the Building Official determines that the stone wall does not abut a State or Town road and is not an historic stone wall as defined in section 79-2(b), then the Building Official shall so certify to the applicant in writing and the provisions of section 79-3(b)&(c) shall not apply.

- b) If the Building Official determines that the stone wall is either abutting a Town or State road, or is an historic stone wall as defined in section 79-2(b), then the applicant shall consider reasonable and unduly burdensome alternatives to removal, replacement, or alteration of the stone wall. Only if there are no reasonable, not unduly burdensome, alternatives to removal, replacement or alteration of the stone wall, shall the Building Official grant permission to take any such action. The Building Official shall only allow the removal, replacement, or alteration of the stone wall to the least extent necessary.
- c) If removal, replacement, or alteration of said stone wall is part of a subdivision or land development project, then compliance with this section is required prior to recordation of final plan.
- d) In considering whether to grant permission for removal, replacement, or alteration of a stone wall, under section 79-3(b) above, the Building Official shall consider the following additional factors, where applicable:
 - 1. Replacement of an historic stone wall at its original location shall be with the same materials and using the same construction method as the original wall, using as many original stones as possible;
 - 2. Cuts for driveways, roads, utility easements, or fire lanes shall be of the minimum necessary length, and ends of walls must be restored;
 - 3. Newly constructed stone walls must closely approximate the appearance of any adjoining stone wall with respect to coursing, native field stone, joint width, and distribution of stones by size.
- e) The Historical Preservation Advisory Board (the “Board”) shall be advisory to the Building Official in making the determination of whether this section is applicable to a particular stone wall, as outlined in sections 79-2(b) and 79-3(a)&(b) above. The Building Official shall forward the site plan and any evidence provided under section 79-2(b) to the Board and the Board shall provide the Building Official a recommendation as to applicability of this ordinance to the stone wall in question within a reasonable time period. The Building Official may rely upon the Board’s recommendation in making his or her own determination under that section. If the Building Official determines that this ordinance is applicable to a particular stone wall, the Building Official shall also request the Board for a recommendation regarding whether and to what extent permission for removal, replacement, or alteration of a stone wall should be granted or denied. The Board shall provide the Building Official with such a recommendation in a reasonable time period and the Building Official may rely upon the Board’s determination in making his or her determination.

Section 79-4. Penalties.

Any person violating any provision of this Chapter shall be subject to a fine of not less than \$100, nor more than \$500. Where appropriate, each day any violation of this Chapter continues shall be a separate offense.

Section 79-5. Severability.

If any one or more sections of this Chapter shall for any reason be adjudged unconstitutional or otherwise invalid, the judgment shall not affect, impair, or invalidate the remaining provisions.

Section 79-6. Relationship to Other Ordinances.

Nothing in this Ordinance shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of the Tiverton Zoning Ordinance.